

OC MS4 Tentative Order No. R8-2008-0300
Comments/Responses

Summary of Comments and Responses on the Orange County Municipal Storm Water Permit						
Comments Received on the November 10, 2008 Draft (Comments No. 1 to 173)						
Comment No.	Commenting Parties	Section No.	Permit Requirement	Comment	Submitted Recommendations	Response
1	Lake Forest	General	N/A	The Draft Permit does not have a Table of Contents	Add a Table of Contents to allow easier navigation to various sections	Comment noted. Due to time constraints, the recommendation could not be implemented.
2	Irvine, County of Orange, Anaheim, Lake Forest,	Finding A5.c	The Permittees have the authority to levy service charges, fees or assessments to pay for compliance with this order.	Assessments to pay for compliance with this order must meet voter approval	Remove Section A.5c	Permit language has been revised to reflect the need for voter approval for some assessments.
3	County of Orange-Attachment B	General	Reference to Permittees	Reference to the Permittees is inconsistent throughout the permit.	Use the recommended language.	Permit language has been revised.
4	County of Orange-Attachment B	Finding A.3, Fact Sheet page 13	MEP definition	The definition of maximum extent practicable stated in the permit and the fact sheet are different and are not consistent with the case law.	Use recommended language.	Permit language has been revised.
5	Irvine	Finding C.8 and Section XVIII.B.3	This order is intended to regulate the discharge of pollutants...from anthropogenic...sources...not... background or naturally occurring pollutants	While this finding indicates an appropriate focus of the permit, Section XVIII, which addresses selenium in rising groundwater is not consistent with Finding C.8. Selenium should be addressed under the TMDL and NSMP programs.	Revise Section XVIII to make it consistent with Finding C.8.	Permit language has been revised to describe the co-operative process that is being used to address the selenium and nutrient impacted groundwater in the San Diego Creek Watershed.
6	Irvine	Finding C.10	Regional Board recognition that the permittees may lack jurisdiction over certain discharges	While this finding appropriately identifies the legal limitations of the co-permittees, Section XVIII requires co-permittees to address selenium in rising groundwater and copper in receiving waters when it's beyond their ability to eliminate those pollutants.	Revise Section XVIII to make it consistent with Finding C.10	Permit language has been revised to describe the co-operative process that is being used to address the selenium and nutrient impacted groundwater in the San Diego Creek Watershed. The sources of copper include controllable sources such as industrial sites.
7	Irvine	Finding 16.b, Finding K.56, Section	The 2007 DAMP includes all activities the permittees propose to undertake during the next permit	This finding references the Draft 2007 Drainage Area Management Plan, which has not been reviewed by the co-permittees.	Ensure that the co-permittees have had an opportunity to review and approve the entire 2007 DAMP prior to permit adoption.	The 2007 Draft Drainage Area Management Plan (DAMP) was submitted with the ROWD on July 21, 2006 by the principal permittee.

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		II.B.2 and Section XIX.3	term.			
8	Irvine	Finding F.18	The County's storm water conveyance systems include an estimated 400 miles of storm drains	The 2002 MS4 permit stated that there were an estimated 400 miles of storm drains in the County and that number should have increased.	Revise estimate.	Finding has been updated to current conditions.
9	Irvine	Finding G.21	This order prohibits the construction of treatment BMPs within waters of the U.S.	This language is overly broad and appears to prohibit trash booms and Natural Treatment System facilities that are installed in retrofitted channels and basins.	Eliminate or narrow the prohibition against natural and structural treatment BMPs.	As stated in the current language of the draft permit, if discharge treatment sufficiently protects the beneficial uses of the receiving water, additional polishing within waters of the U.S. may be considered. Street sweeping, catch basin inserts/filters and catch basin cleanouts result in discharges that, for the most part, protect the beneficial uses of those receiving waters. The use of trash booms primarily protects the downstream beaches. Finding 21 indicates that treatment systems within waters of the U.S. could be considered on a case-by-case basis.
10	Irvine	Finding H.30	It is anticipated that many of the inspections required under this order can be carried out by inspectors currently conducting other types of inspections for the permittees.	It should not be assumed that additional duties added to current inspections do not lead to any additional workload or City resources.	Remove that language.	The permit language does not assume that no additional workload will result from these duties being carried out by inspectors currently conducting other types of inspections, but rather identifies possible workload savings using this strategy, rather than always sending out an additional inspector to address only storm water issues.

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11	Irvine	Finding I.38 and O.74	Theses findings discuss the use of debris booms within apparent waters of the U.S.	This statement would appear to violate the restriction identified in Finding G.21, prohibiting the implementation of treatment BMPs in waters of the U.S.	Please clarify.	See response to comment 9.
12	Irvine	Finding J.43	TMDLs have been established by the Regional Board for... the San Diego Creek / Newport Bay watershed.	It is the City's understanding that the San Diego Creek/Newport Bay watershed is referred to as the Newport Bay watershed.	Please clarify.	Permit language has been revised.
13	Irvine	Finding K.55	The permittees have adopted grading and erosion control ordinances, guidelines and BMPs for municipal, commercial, and industrial activities.	The co-permittees have not adopted BMPs but instead the DAMP and LIPs contain guidelines for the implementation of minimum BMPs	<i>Revise to read: The permittees have adopted grading and erosion control ordinances and guidelines for the implementation of minimum best management practices (BMPs) for municipal, commercial, and industrial activities.</i>	Permit language has been revised.
14	Irvine	Finding L and throughout	NEW DEVELOPMENT/ SIGNIFICANT REDEVELOPMENT – WQMP/LIP/LID	Throughout the draft order there should be a distinction between the model WQMP and the project WQMP.	Please differentiate between the project and model WQMPs	Permit language has been revised.
15	Irvine	Finding L.61	Finding identifies that the Southern California Coastal Water Research Project (SCCWRP) is developing a Low Impact Development Manual for Southern California.	It is our understanding that SCCWRP is not developing this manual.	Please clarify.	Permit language has been revised.
16	Irvine	Finding L.62	Finding identifies that USEPA has determined that by limiting the effective impervious area (EIA) of a site, downstream impacts could be	USEPA has not determined that prescriptively limiting EIA to 5% or less is the best way to minimize receiving water impacts in all watersheds and for all physical conditions. With regards to Dr. Horner's study,	Revise this finding to recognize other white papers and information submitted to the Regional Board and revise the New Development and Significant Redevelopment provisions to use a volume treatment performance standard for	Permit language has been revised.

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			minimized. A limited study conducted by Dr. Richard Horner concluded that a 3% EIA standard for development in Ventura County is feasible.	additional white papers produced in meetings regarding this Orange County permit indicate that a 3% EIA standard may be inappropriate for incorporation into this permit.	LID implementation, more specific exemption criteria for when LID may be undesirable, and establish timelines for the development of watershed plans and LID/hydromodification control standards.	
17	Irvine	Finding L.66	Finding states that if certain BMPs are not properly designed and maintained, they could become sources of groundwater pollution, nuisance, etc.	While the City supports the more stringent requirements for use of LID BMPs, if LID infiltration BMPs are used in inappropriate conditions, they may be sources of pollution or nuisance.	Revise findings to indicate technical and environmental constraints on LID infiltration BMPs.	Permit language has been revised.
18	Irvine	Finding L.67	Finding states that if the BMPs in Finding L.65 are not properly designed and maintained, they could become sources of nuisance and/or habitat for vectors.	If LID infiltration BMPs are not properly designed or maintained, they may become sources of nuisance and/or habitat for vectors.	Revise findings to indicate that LID infiltration BMPs may become sources of nuisance and/or habitat for vectors if not properly designed or maintained.	Permit language has been revised.
19	Irvine	Finding M.68	Finding discusses de minimus discharges and states that municipal de minimus discharges generally do not require separate coverage under the Regional Board's de minimus permit.	This finding can be interpreted to mean that all de minimus discharges are prohibited in the San Diego Creek/Newport Beach watershed.	The language should be clarified. Further, the City supports the County comment that all de minimus discharges should be allowed unless a finding is made that those discharges are a significant source of pollutants.	Permit language has been revised to clearly state that a separate de minimus permit is required for non-storm water discharges to the MS4 in the San Diego Creek/Newport Beach watershed.
20	Irvine	Finding M.69	Finding points out the high nitrate and/or selenium levels in the soils and/or groundwater in the San Diego Creek/Newport Bay watershed and that dewatering activities	LID infiltration BMPs can also potentially mobilize nitrogen and selenium.	The findings should recognize that fact.	While the comment is valid, it was not the intent of Regional Board staff to identify <u>all</u> scenarios that could lead to mobilization of nitrogen and selenium in Finding 69.

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			could mobilize these pollutants.			
21	Irvine	Finding N.71	The principal permittee in collaboration with the co-permittees is to develop guidelines for the competencies and training schedules for municipal storm water positions.	While training is necessary, the City wants the flexibility to design and conduct training as well as the methodology for assessing the competency of staff.	Revise this finding and add an option to enable individual co-permittees to provide in-house training using curriculum developed by the principal permittee in collaboration with the co-permittees.	Permit language has been revised.
22	Irvine	Finding O.76	The finding discusses the importance of cooperation by public agency organizations within Orange County that have an impact on storm water quality.	More needs to be done to secure the participation of some of the larger public agencies within the Newport Bay Watershed, such as UCI.	Encourage state institutions and other major dischargers in the watershed, such as UCI, to join the NSMP and other applicable watershed efforts.	Regional Board staff will continue to work with the stakeholders whose activities and/or discharge contributes to the selenium/nutrient impacts in the watershed.
23	Irvine	Finding R.83	The finding discusses the elimination of illegal discharges and illicit connections to the MS4.	The terms 'illegal' and 'illicit' should not be used interchangeably	Determine correct/consistent terminology and use throughout the permit.	Permit language has been revised.
24	County of Orange, Riverside County Flood Control	General comment	General comment	The proposed permit increases administrative burden.	Adjust the current reporting requirements rather than increasing the reporting requirements.	Draft permit amended to streamline reporting requirements.
25	Riverside County Flood Control	General comment	General Comment	The basis for the Riverside County MS4 Permit should be the 2002 Riverside County MS4 Permit, not the Draft OC MS4 permit	The basis for the Riverside County MS4 Permit should be the 2002 Riverside County MS4 Permit	Comment noted
26	San Bernardino Stormwater Program	I.B.12	Requires permittee to develop adequate guidelines for competency requirements for stormwater managers, inspectors etc.	This requires developing an entire training program to be placed upon the shoulders of the Principal Permittee	These competencies are in a large part already well-established by CASQA and other organizations. It would be appropriate for the Principal Permittee to coordinate only the training effort	Although guidance documents have been created by various organizations, it is the responsibility of the Principal Permittee to collaborate with co-permittees to develop a

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						competency program specific to the requirements within this permit.
27	Irvine	Section I.B.12	Develop guidelines for defining competencies of municipal managers and inspectors	The competency of staff and the outcome of any evaluation of competency are confidential	The permittee cannot commit to providing any competency evaluations or reporting on confidential documents that are part of an employees' performance.	The permit language has been revised, with the understanding that deficiencies in a permittee's program that are the result of either management or staff's lack of understanding of the program will result in enforcement actions.
28	Orange County- Attachment B, Riverside County Flood Control	III.3.	Discharge limitation/prohibition	Make the prohibitions consistent with the federal regulations.	Retain language from Order No. R8-2002-0010.	Language revised to be consistent with the federal regulations, 122.26(d)(2)(iv)(B)(1).
29	Orange County- Attachment B, Riverside County Flood Control	III.3.	Public education to reduce non-storm water discharges	Remove the requirements for public education and outreach to reduce non-storm water discharges.	Retain language from Order No. R8-2002-0010.	Reducing non-storm water discharges could possibly reduce the pollutant load to the MS4s.
30	Orange County- Attachment B, Riverside County Flood Control	III.3.	Categories of non-storm water	Irrigation water from agricultural sources.	Runoff from agricultural sources should be addressed through other programs.	Permit language has been revised.
31	Irvine	Section III.3.i	The discharges identified below need not be prohibited by the permittees if they have been determined not to be substantial contributors of pollutants to the MS4	The wording reverses the presumption found in Federal regulations that these de minimus discharges are not significant sources unless a finding is made to the contrary.	No submitted recommendation was submitted for this comment.	Permit language has been revised.

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			and receiving waters.			
32	Irvine	Section III.3.i.I	Discharges of potable water (i.e., fire hydrant flushing) would have to be addressed as a de minimus discharge.	Discharges from fire hydrant flushing would require capture, analysis and volumetrically and velocity controlled discharges.	Change III.3.i.I to existing de minimus permit requirements by cross-referencing that permit.	The proposed permit conditions for the discharge of fire hydrant flushing waters remain the same as the de minimus permit with regard to residual chlorine concentrations. The proposed language regarding volumetrically and velocity controlled to prevent resuspension of sediments has been revised to read "...prevent hydrologic conditions of concern in receiving waters."
33	Irvine	Section III.3.i.I and XXI.5	With regards to emergency fire fighting flows, where possible, when not interfering with health and safety issues, BMPs should be implemented.	BMPs should only be required during controlled fire exercises and/or training. BMPs should not be required, even as 'where possible' for emergency situations.	Delete sentence referring to implementation of BMPs during emergency fire fighting operations, as well as the requirement in XXI.5.	While the sensitivity of implementing BMPs during actual fire fighting activities is understood, it is not unreasonable to expect BMPs to be implemented where feasible to meet the Maximum Extent Practicable threshold for permittee action.
34	County of Orange-Attachment A, Riverside County Flood Control	III.3.i.c	Irrigation runoff from agricultural sources	Runoff from agricultural sources is exempt from NPDES requirements.	Agricultural sources should not be included in this category.	Permit language has been revised.
35	Irvine	Section III.3.i.c	Irrigation water from agricultural sources.	Agricultural sources are non-point source, are not subject to NPDES permits, and are not currently the subject of Waste Discharge Requirements or a Conditional Waiver of WDRs. Federal regulations do not specify agricultural irrigation	The category 'irrigation water from agricultural sources' should be amended to read 'irrigation water' and the category 'irrigation water from agricultural sources' should be addressed through other Regional Board regulatory mechanisms.	Permit language has been revised.

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				runoff as a de minimus discharge to MS4 systems.		
36	SDGE	III.3	Prohibition of non-storm water discharges unless the following conditions are met:	As the permit is currently worded, there could be some misunderstanding that non-storm water discharges covered under a separate permit may be considered prohibited	Revise sentence to read: The permittees shall prohibit the following categories of non-stormwater discharges unless such discharges are authorized by a separate NPDES and/or the stated conditions below are met.	Permit language has been revised.
37	Cypress	III.3 (ii)a	Discharge Limitations/Prohibition: Discharges from potable water sources, including water line flushing, superchlorinated water line flushing, fire hydrant system flushing , and pipeline hydrostatic test water: Planned discharges shall be dechlorinated to a concentration of 0.1 ppm or less, pH adjusted if necessary , and volumetrically and velocity controlled to prevent resuspension of sediments.	The Orange County Stormwater program has developed BMP Fact Sheets FP-6 – Water and Sewer Utility Operation and Maintenance, FP-7 Fire Department Activities and IC-23 Fire Sprinkler Testing/Maintenance. In the absence of any Finding that existing control efforts are inadequate,	Specific requirements for the discharges identified in Section 3.ii.a should reference these Fact Sheets	Although the information contained within the Orange County Storm water program's Fact Sheets may be consistent with the requirements illustrated within this Section of the Draft Order and have been developed in order to comply with previous iterations of the Order, the Order itself sets the requirements for compliance. Fact Sheets have been prepared as a guidance tool to be used by co-permittees.
38	State Water Resources Control Board	III.3(ii)c	Dechlorinated swimming pool discharges: reduce volume and velocity to prevent resuspension of sediments	Is the intent to prevent resuspension of sediments in the receiving water, the MS4 or the BMP?	Clarify information concerning comment and revise paragraph heading to read "Swimming Pool Discharge"	The proposed language regarding volumetrically and velocity controlled to prevent resuspension of sediments has been revised to read "...prevent hydrologic conditions of concern in receiving waters." The paragraph heading as been

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						revised.
39	Cypress	III.3(ii)c	Dechlorinated swimming pool discharges: reduce volume and velocity to prevent resuspension of sediments	Placing numeric limits for pool discharges affirms that the City is already doing by distributing the County's "Tips for Pool Maintenance" brochure.	The City wants to be certain the intent is not to make the City test each discharge or have the City require residents to obtain permits for such.	The criteria listed in this section should be used to establish municipal codes and enforcement procedures. In most cases, we do not anticipate the need for residual chlorine testing or permitting.
40	County of Orange	Section IV of the M&RP	Program Effectiveness Assessment	Use existing and newly generated data for program assessment in accordance with the CASQA Guidance.	Make program assessment requirements consistent with the recommendations in the ROWD.	The permit provides the permittees the option of using the CASQA Guidance or other technically sound methodology.
41	Orange County- Attachment B	Section VI	Reporting of State's General Permit violations.	Permittees do not enforce the State's General Permit.	Revise language as suggested.	Enforcement requirements have not changed from the 2002 permit; this approach avoids duplicative efforts and fosters cooperation among various regulatory/local agencies.
42	Irvine	Section VI.1, VI.3, VII.1	Such legal authority must address all illegal connections and illicit discharges into the MS4s, including those from all industrial and construction sites.	The legal authority documents (ordinances, etc.) give authority to the permittee to develop a program to control illicit discharges and illegal connections, but does not set forth the specific components of the program. Legal authority should not be confused with procedures and methods to accomplish compliance.	Revise the language of this requirement to indicate the role of the DAMP and LIPs in setting forth the program to address illegal connections and illicit discharges.	Permit language has been revised.
43	Lake Forest	VI.2	The permittees shall progressively and decisively take enforcement actions against any violators of their Water Quality Ordinance	This language (progressively and decisively) creates ambiguity about what is actually required.	None offered	The language in question reflects the progressive enforcement actions as referenced in the permittee adopted Orange County Enforcement Consistency Guide.

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44	Anaheim, Villa Park, Cypress	VI.2	The permittees' ordinance must include adequate legal authority to enter, inspect, gather evidence (pictures, videos, samples, documents, etc.) from industrial, construction and commercial establishments	Concern about search and seizure laws and the necessity to obtain a Court Order are being looked into, should the current iteration of the proposed permit language remain as is. Villa Park states: Proposed language may be viewed as a violation of 4 th amendment	Therefore, in order to ensure inspections may be conducted as intended through legal authority via municipal codes, the permit language should be retooled to avoid unnecessary efforts	Permit language has been revised.
45	Irvine	Section VI.2	The permittee's ordinance must include adequate legal authority to enter, inspect and gather evidence from industrial, construction and commercial establishments.	The City agrees with the County comments that this provision could impose entry requirements on the co-permittees that violate the 4 th Amendment rights of property owners	"The permittees shall carry out inspections, surveillance, and monitoring necessary to determine compliance with their ordinances and permits. The permittees' ordinance must include adequate legal authority, to the extent permitted by California and Federal Law and subject to the limitations on municipal action under the constitutions of California and the United States, to enter, inspect and gather evidence (pictures, videos, samples, documents, etc.) from industrial, construction and commercial establishments..."	Permit language has been revised.
46	Lake Forest	VI.3	"these penalties shall be issued in a decisive manner	The term <i>decisive</i> creates ambiguity about what is actually required	None offered	The term decisive was used to infer a directly definitive, results-oriented enforcement process
47	Villa Park, Cypress, Laguna Hill	VI.6	Permittees are to provide quarterly notifications w/ inspection results to RB, for all inspections conducted at sites covered under the Statewide General Industrial and	Quarterly reporting of enforcement activity is an administratively burdensome requirement for medium and small cities with little to no staff resources.	Maintain current enforcement activity reporting requirements	Reporting requirements have not changed with respect to the information to be submitted. However, the frequency has been changed. Historically, many permittees have submitted inspection information on a monthly basis or immediately following

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			Construction Permits.			the inspection event.
48	Fullerton, Costa Mesa, Brea, Irvine	Various	Additional reporting requirements throughout various Sections	The draft Order requires additional reporting to the Regional Board staff. The City believes that adjusting the existing reporting processes rather than creating additional reporting requirements is the most effective approach to increasing transparency and accountability	None	Information collected during the (third term permit) MS4 audits, concluded that additional reporting requirements were warranted. In order to ensure compliance with data collection requirements within the permit, various reporting requirements have either been sustained or introduced accordingly
49	Orange County- Attachment B	Section VII.5	Trash Characterization	Each Permittee should not be required to characterize trash.	Principal Permittee should be responsible for this.	While trash sources may not significantly vary among municipalities, the relative quantities of trash type will vary between municipalities and even within municipalities. The purpose of this study is to focus municipal resources (education and enforcement) on the most prevalent trash sources within the municipality in an effort to avoid a possible, future trash TMDL.
50	Orange	VII.5	Permittees to review their trash control ordinance. To determine the need for any revisions/ determine sources and proper BMPs to control urban runoff. Include findings in the Annual Report	Is the intent of the Permit to have each permittee carry out this requirement? It makes no sense to have each permittee conduct a county-wide study, since trash sources do not vary significantly among municipalities	Revise the paragraph to require the principal permittee instead of the co-permittees to conduct the county-wide study over the 5 year permit term to characterize trash sources	Permit language has been revised. See response to Comment #49
51	Orange,	VIII.2	Construction site	The first part of the paragraph	Change language to make it not	Permit language has been

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	Cypress, Riverside County Flood Control		inventory to include all sites, within each co-permittee's jurisdiction for which building or grading permits have been issued where activities at the site include	requires the inventory list is limited to sites with issued building or grading permits that raise concerns regarding water quality, but later contradicts itself by stating "all sites". This would include plumbing, encroachment or other indoor permits.	contradictory. Exclude the GIS requirement from construction projects within the public right of way as well.	revised. .
52	Irvine	VIII.2	Construction site inventory to be maintained and updated quarterly	This requirement will be burdensome and unnecessary as it will just be created to satisfy a draft tentative order. Since construction project timelines are not short enough to result in meaningful additions to the inventory within the period of three months.	Updates should only be required on a biannual basis (in September, preparatory for the rainy season and rainy season inspections).	Maintaining and updating the site inventory quarterly is to ensure that records remain current concerning the regular and constant oversight of construction activities within each permittee's jurisdiction.
53	Irvine	Section VIII.4	Each permittee shall conduct construction inspections for compliance with its ordinances (grading, Water Quality Management Plans, etc.), local permits (construction, grading, etc.), the Model Construction Program...	Water Quality Ordinances do not include a reference to project WQMPs, which are post-construction documents.	Remove parenthetical entries. "Each permittee shall conduct construction inspections for compliance with its ordinances, local permits, the Model Construction Program..."	Permit language has been revised.
54	Riverside County Flood Control		Construction site inspection requirement to include review of the Erosion & Sediment Control Plan	In addition to requiring a significant increase in the level of training and expertise of construction site inspectors, this requirement will significantly increase the amount of time needed for each construction site inspection	Exclude requirement from the draft Riverside County MS4 permit	The current (2002) OC MS4 permit already requires, inspection staff to have sufficient expertise in construction inspection processes as they relate to water quality and storm water related issues.

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55	Lake Forest	VIII.6	"[e]ach permittee shall respond to complaints received by a third party in a <i>timely</i> manner to ensure that the construction sites are not a source of pollutants in the MS4s and the receiving waters	The term "timely" creates ambiguity about what is actually required	None offered	Response to complaints must be handled in order of severity, with respect to the sites' potential to act as a pollutant source to the MS4. Therefore, the term "timely manner" was listed with the understanding that municipal staff receiving the complaint would be properly trained and equipped to determine how potentially grievous the pollutant threat could be and address it accordingly. The setting of an arbitrary time limit (e.g., within 1 business day) could put permittees in violation of the permit by not addressing very low priority complaints in that time limit.
56	County of Orange – Attachment A	Sections VIII, IX and X	Inspection requirements	The inspection requirements are well beyond federal law.	Make requirements in the permit consistent with the federal laws and regulations.	The inspection requirements are consistent with the federal laws and regulations. See 40CFR112.26(d)(2)(F) and the MEP provisions in Clean Water Act at Section 402(p)(3)(B)(iii).
57	County of Orange – Attachment A	Sections VIII, IX and X	Inspection requirements	Requirements beyond the federal requirements tantamount to unfunded mandate.	Unfunded mandates should not be part of this permit.	The permit requirements are consistent with the federal laws and regulations and, therefore, are not unfunded mandates.
58	County of Orange – Attachment A	Sections VIII, IX and X	Inspection requirements	The inspection requirements violate the fourth amendment.	Make changes to the inspection requirements consistent with the state and federal laws and regulations.	Permit language amended.

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59	San Bernardino Stormwater Program	VIII,IX,X	Inspection requirements	Requirement within these sections have new specific actions, such as electronic database, to check if sites have filed NOI, photos that need to be taken and included in the database, requirements for on-site enforcement actions.	We suggest that the permittees be allowed to prioritize and take enforcement actions based on their own criteria.	While the permittees have the ability to prioritize enforcement activities based on their own criteria to a certain extent, the Regional Board still has the obligation to set a minimum standard in the permit to ensure a level of consistency amongst the permittees.
60	Orange	IX.2	Facilities Covered under the General Industrial Permit are automatically considered as High Priority and therefore are required to be inspected.	History has shown that once a facility has been inspected at least once, there is an increased awareness of water quality impacts and facilities will implement BMPs to minimize storm water and non storm water discharges.	Allow redesignation of mandatory high priority facilities based on the suite of factors in the DAMP used to rank a facility.	The criteria by which facilities are identified for coverage under the General Industrial Permit are based on either their industry's potential to pollute and/or the actual exposure of materials, wastes, or processes to storm water. This criteria alone is sufficient for a mandatory 'high' priority.
61	Irvine	Section IX.3	Industrial inspections shall include a review of material and waste handling and storage practices, written documentation of pollutant control BMP implementation and maintenance procedures and digital photographic documentation for any water quality violations, as well as, evidence of past or present unauthorized,	The written documentation, in the form of storm water pollution prevention plan, is only required for facilities with industrial storm water permits. The burden of SWPPP review for compliance with the State's General Industrial permit should remain with the Regional Board staff. The City's inspections should continue to assure no ICS/IDs and compliance of facilities with City water quality ordinances and requirements	Please clarify the intent of the industrial facility document inspections consistent with the City's comments.	Permit language has been revised to clarify that the '... written documentation of pollutant control BMP implementation and maintenance procedures ...', refers to one of the four items required to be in a permittee-prepared inspection report. Those four items include: a written review of material/waste storage procedures; the written documentation of BMP implementation; photographic documentation of evidence of

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			non-storm water discharges and enforcement actions issued at the time of inspection.			discharges; and, a listing of enforcement actions resulting from the inspection.
62	Westminster	IX.6 & X.5	Electronic inspection database submittal requirement in each annual report for Industrial and Commercial inspection programs	Clarify if permittees should submit only inspection inventory or the entire inspection database for these categories.	None. Request for clarification only	Permit language has been revised to allow the submittal of all inspection documentation/information in hardcopy form if a municipality's database uses a proprietary program (not Access or Excel compatible)
63	County of Orange	Section X	Commercial inspections	The permit extends the regulatory reach of local jurisdictions without technical justification.	Unjustified inspections should not be required.	Quantifiable inspection requirements are included to ensure an equitable level of effort across all permittees.
64	Irvine	Section X.1	Each permittee shall continue to maintain and quarterly update an inventory of the types of commercial businesses listed below.	Section X.1 requires 11 new, additional categories to be added to the commercial facilities inventory. It does not make sense to increase the commercial facility inspection burden so significantly in the time of budget constraint. Further, there's no indication in the ROWD that commercial facilities are currently such significant sources of pollutants to warrant this increase in inspections.	The new categories should be deleted until such a time that these types of facilities have been determined to contribute a significant pollutant load to the MS4.	The Fact Sheet and the findings have been revised. The revised permit language requires the Principal Permittee to prioritize these new categories based on potential threat to water quality.
65	Orange County- Attachment B	Section X.1	Municipal inspections of commercial facilities.	There are 11 new categories included in the draft permit with out any technical justification.	These resource intensive inspection requirements should be deleted.	The Fact Sheet and the findings have been revised. The revised permit language requires the Principal Permittee to prioritize these new categories based on potential threat to water quality.

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66	Orange County-Attachment B	Section X.1	Commercial inspection frequencies	Some of the facilities listed under the commercial inspection program should be under the industrial program.	Move industrial type of facilities under the industrial program.	Permit language has been revised.
67	Orange County-Attachment B	Section X.2	Commercial inspection frequencies	The permit arbitrarily assigns priorities for inspections.	The Permittees should be allowed to develop a prioritization system.	Audits conducted by Regional Board staff indicated that some Permittees were ranking all their commercial facilities as "low" even though similar facilities were ranked as "high" by other Permittees.
68	Orange County-Attachment B	Section X.8	Mobile businesses	No technical basis. Difficulty in regulating mobile businesses.	Principal Permittee to develop a pilot program.	A uniform prioritization criteria and inspection requirements are acceptable alternatives. Permit language has been changed.
69	Villa Park, Yorba Linda, Tustin	X.1	Permittees to maintain and update commercial facility inventories quarterly, in a computer-based database system with all third term permit inventory criteria, as well as information on ownership, size, location, GIS w/ Lat/Longitude	Quarterly updating of the commercial facilities database and the implementation of GIS tracking of commercial fixed facilities is a burdensome requirement that for medium to small cities with little to no staff resources is not viable	Maintain current commercial facility tracking requirements	Third term permit recommended annual updating of commercial inventories with GIS tracking capabilities. During the 3 rd term permit, MS4 Audits conducted by Regional Board staff indicated the need for more regimented oversight regarding commercial inventory management. Therefore this recommendation transitioned into a requirement within the fourth term permit.
70	Laguna Hills	X.1	Permittees to maintain and quarterly update an inventory of commercial facilities within its jurisdiction.	This section should be modified to allow the permittees to update the commercial inventory annually and submit it with the annual NPDES report	The requirements within this section should not be changed from the current 3 rd term permit.	The purpose of maintaining an updated inventory list is to ensure that adequate oversight controls are in place. During the 3 rd term permit, MS4 Audits conducted by Regional Board staff

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						indicated the need for more regimented oversight regarding commercial inventory management.
71	Irvine	Section X.2 and X.3	Commercial facility inspection criteria	The mandate that 10%, 40% and 50% of commercial facilities be ranked high, medium and low is not based on technical data or on demonstrated risk posed by commercial facilities.	The DAMP and LIP provisions should instead be reviewed and revised to assure that the criteria result in adequate oversight. Secondly, high ranked sites should be inspected once per permit cycle rather than once a year and medium and low site inspections be dropped.	During the third permit term, the permittees were given the opportunity to design a commercial facility ranking system based on a number of criteria including type/size of activity, potential for pollutant discharge and history of pollutant discharges. Despite this opportunity, in the most recent annual report, some permittees are reporting few or no high priority commercial sites out of hundreds to thousands of sites that met one or more of the 11 categories listed in the third term permit. The 10/40/50 breakdown should be used to ensure that the 10% of commercial facilities with the highest potential for pollutant discharge be ranked 'high' and be inspected annually, similarly for the medium and low priority rankings.
72	OC Public Works, Huntington Beach, Costa Mesa, Orange, Brea, Westminster, Villa Park,	X.2	10% of all commercial sites (excluding restaurants) shall be ranked "high" , 40% ranked medium and the remaining 50% ranked low	This new requirement will increase the annual inspection requirements to a point where resources are incapable of complying with the requirements. The inventory should be determined solely on a risk-based instead of a mandatory	Each permittee conduct inspections of its commercial facilities as indicated below. To establish priorities for inspection, the permittees shall continue to prioritize commercial facilities/businesses within their jurisdiction as a high, medium or	During the 3 rd term permit, MS4 Audits conducted by Regional Board staff indicated the need for more regimented oversight regarding commercial inventory management and inspections within this section. The

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	Lake Forest, Cypress, Laguna Hills, Yorba Linda, Tustin			curve-based criterion.	low threat to water quality based on such factors as the type, magnitude and location of the commercial activity, potential for discharges, proximity and sensitivity of receiving waters, material used and wastes generated at the site. Within 6 mos. Of the adoption of this order, the Permittees shall review their existing prioritization system, criteria and results based on the inspections and determine if any modifications are necessary. The modifications shall be completed within 6 months of the determination and reported on in the annual report.	percentages indicated within this section were developed following extensive review of inspection information within PEAs submitted by co-permittees during the 3 rd term permit.
73	Irvine, Westminster	Section X.3 and X.5	Commercial facility inspection documentation	The commercial inspection section that requires photographic documentation for all aspects of the inspection is too onerous.	Photographic evidence should only be required in the case of water quality ordinance violations and only in manner consistent with local, state and federal ordinance, regulations and laws.	Photographic evidence of all aspects of commercial inspections will assist permittees in supporting the appropriate enforcement action and will provide evidence during Regional Board audits that site conditions during inspections by municipal staff, are receiving the appropriate enforcement actions, if any.
74	County of Orange	Section X.8	Mobile businesses	A new regulatory oversight is prescribed for mobile businesses.	The permittees have already developed BMPs for these businesses; additional requirements are not warranted.	Complaints received in the Regional Board office and Board staff's field observations indicate that these discharges have not been fully eliminated and additional measures are needed to control discharges from mobile businesses.

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75	Villa Park, Cypress, Laguna Hills	X.8	Mobile businesses shall implement appropriate control measures within 3 months of being notified by permittees	It's unrealistic to expect that over any period of time it would be possible for the principal permittee to notify all mobile businesses operating within the County, of minimum source controls and pollution prevention measures that they must develop and implement.	...modify the requirement to read that "...the principal permittee shall utilize all reasonable resources to notify mobile businesses..."	Permit language has been revised.
76	ProntoWash	X.8	Mobile businesses shall implement appropriate control measures within 3 months of being notified by permittees	Require mobile operators to be inspected and trained in water quality control measures during the business licensing process.	During the licensing process, the mobile operations should be inspected and the operators should be trained on water quality protection procedures.	Many municipalities currently do not issue business licenses. Listed within Section X.8, are requirements for the permittee to distribute educational materials to businesses as well as a training program requirement.
77	Lake Forest	X.8	Mobile businesses shall implement appropriate control measures within 3 months of being notified by permittees	The regular, effective practice of unannounced inspections is difficult to impossible to implement. Identifying mobile businesses is difficult because they are often not permitted or licensed. Mobile businesses are transient in nature, advertise a mobile phone number as the only means of contact and may have geographic scope of several cities or the entire region.	Remove the mobile business requirements from the draft permit and instead, require the permittees to develop their own program for implementation during the next permit cycle.	Permit language has been revised.
78	County of Orange, Villa Park, San Bernardino Stormwater Program	Section XI	Each permittee shall develop and implement a residential program to reduce the discharge of pollutants from residential facilities to the MS4 to MEP...	No technical justification for the residential program. Remove the Residential Program from the Order completely	Recognize the fact that the current public education programs are working. Remove the Residential Program from the Order completely.	Despite implementation of public education programs, residential areas continue to be a significant source of pesticides, herbicides, nutrients and nuisance flows. Additional actions are necessary to further address these problems.
79	Irvine	Section XI.2	Identification of residential areas and	Many aspects of this proposed requirement are already covered	Retain the residential program as part of the Public Education section	Despite implementation of public education programs,

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			activities that are potential pollution sources and requiring residents to implement pollution prevention BMPs.	by Public Education activities. Further it may require passage of new ordinances forcing residents to implement specific minimum BMPs and those types of ordinances are unpopular.	and revise the key provision in the draft permit to : "The permittees shall require <u>encourage</u> residents to implement pollution prevention measures via the public education and outreach Program ...".	residential areas continue to be significant sources of pesticides, herbicides, nutrients and nuisance flows. Additional programs are needed to address these problems. Some changes made to the provisions.
80	Orange County- Attachment B,	Section XI.2	Residential program	The requirement for a residential program is duplicative of existing public education and outreach activities.	Avoid duplicative requirements.	Permit language has been amended.
81	Anaheim, Fullerton, Costa Mesa, Brea, Cypress, Laguna Hills, Yorba Linda, Tustin	XI.2	The permittees shall require residents to implement pollution prevention measures	Requiring residents to implement best management practices is problematic	Change the wording to state: "The permittees shall <u>encourage</u> residents to implement pollution prevention measures."	Permit language has been revised.
82	Cypress	XI.3	The permittees, collectively or individually, shall facilitate the proper collection and management of used oil, toxic and hazardous materials, and other household wastes.	The city is concerned with the funding for conducting collection events.	The current County of Orange Household Hazardous Waste Collection Program has been working well since its implementation and agencies continue to do a good job making residents aware of this service. Change language from "shall" to "... <i>should</i> facilitate the proper collection and management."	Requirements within this section have not changed essentially from requirements within Section I.4 of the 3 rd term permit.
83	Irvine	Section XI.4	Control measure requirements for common interest areas and areas managed by Home Owner Associations.	A limited pilot HOA program has been initiated by the City to educate certain property managers on the economic and water quality benefits of improved irrigation and landscaping practices. But the draft tentative order as currently written mandates that co-permittees must develop and	Revise the first sentence of this section as follows: "The permittees shall develop and implement a public education and outreach component to encourage owners ...".	The tentative order requires the permittees to develop and implement a public education and outreach component to <u>encourage</u> HOAs to implement BMPs. Nothing in that section requires permittees to build or maintain BMPs on private property.

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				implement new BMPs for common interest areas, including, we presume, structural treatment control BMPs as well as source control BMPs.		
84	Cypress, Irvine	Section XII.A.2	Inclusion of LID requirements in WQMPs.	The 6-month time frame for this requirement is too aggressive and does not allow time to collect info on watershed characteristics, stakeholder participation and the time required for adoption of the revisions by local governments.	A more reasonable time frame should be established.	<p>Much of the groundwork for this requirement has been completed through a series of meetings between permittees, environmental NGOs and development representatives. It should be noted that this deadline refers to the default plan. Watershed specific plans can be delivered after that date.</p> <p>Some changes have been made to the new development section of the permit.</p>
85	Irvine	Section XII.A.4	The first annual report following adoption of this permit must include a review of the inclusion of LID principals in the General Plan and other city documents.	This requirement is out of sync with the actual requirements for updating the DAMP, LIPs and model WQMPs.	Revise the requirements so that a single, integrated update of these documents is implemented.	Permit language has been revised.
86	Irvine	Section XII.B.2	The list of priority development projects requiring a WQMP	Items f and g of this section would require treatment control BMPs for single-family homes, if they were large enough. This would be too much of a burden on homeowners and on City staff required to review and inspect these BMPs.	Do not require WQMPs or treatment control BMPs for single-family homes.	This permit requirement will only affect projects on hillsides with a natural slope of 25 percent or more and projects that are within 200 feet of an Area of Biological Significance (ASBS). As such these projects need the extra level of protection afforded by the development of a WQMP

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						and implementation of appropriate control measures.
87	Irvine	XII.B.2.c	Priority Development Projects would include commercial/industrial developments greater than 10,000 square feet.	The threshold has been lowered in this permit from 100,000 square feet to 10,000 square feet.	The fact sheet should explain the basis for lowering the threshold criterion.	Fact sheet has been revised to provide basis.
88	Irvine	XII.B.2.i	Priority Development Projects would include streets, roads, highways and freeways of 5,000 square feet or more.	Road projects as small as 5,000 do not and cannot properly involve changes to the drainage facilities. Further it is not feasible to implement a 5%EIA or LID BMPs for the 85 th percentile design treatment volume.	Reconsider this requirement.	The permit will be revised including the incorporation of the concepts presented in "Managing Wet Weather with Green Infrastructure: Green Streets" (U.S. EPA, 2008)
89	Irvine	XII.B.5.a	Use of structural infiltration treatment BMPs shall not cause or contribute to groundwater water quality objective exceedances.	In the Newport Bay Watershed, there are areas where the use of any infiltration BMPs will result in mobilization of nitrogen and/or selenium.	Explicitly preclude the use of LID BMPs and exempt projects from LID implementation and hydromodification control performance standards in areas with shallow groundwater, polluted groundwater, inappropriate geotechnical conditions or rising groundwater.	The current Draft Permit language already contains sufficient warnings regarding the use of infiltration BMPs, including LID-type BMPs, without having to specifically add this language.
90	NAIOP	Section XII.C	Treatment and Low Impact Development (LID) BMPs.	It appears that the permit is biased against the use of a watershed-based or regional type solutions.	Allow as much flexibility as possible in order to achieve the permit's goals across the jurisdiction regulated by the permit.	Comment noted. The permit provides sufficient flexibility for regional and sub-regional type solutions.
91	Irvine	XII.C.1	Requirements that LID site design principals be implemented to reduce runoff to the maximum extent practicable.	The list of site design BMPs provided is a confusing mix of goals, tasks and work products that don't provide a clear basis for compliance.	Separate the provisions to distinguish between recommended site design BMPs and other goals for the new development and redevelopment program.	Permit language has been revised.
92	Irvine	XII.C.2	Requirements for source control BMP implementation.	It is not clear why the major discussion of LID also includes prescribed source control BMPs.	Section XII.C.2 should be deleted from the current section and proposed as a separate section.	While the primary focus of Section C is on LID BMP implementation, source

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						control BMPs, particularly when they're implemented through proper site design, play a role in LID.
93	Irvine	XII.C.4	Conditions for the substitution of treatment control BMPs for LID measures.	One of the conditions is for EIA to be 5% or less. How does one achieve an EIA of 5% or less without implementing LID?	Delete this section.	Permit language has been revised.
94	Irvine	XII.D	Hydromodification	It is not clear how the 5% or less hydrologic impact standard would be measured and does the standard allow for dense infill and transit oriented development as required by SB 375?	Revise and clarify section.	Permit language has been revised.
95	Irvine	XII.E.2	Structural treatment control BMP requirement met by regional treatment systems.	No mention of obtaining Executive Officer determination on regional treatment systems.	Please revise to clarify the need for Executive Officer approval of common project BMPs.	Permit language has been revised.
96	Irvine	XII.G.3	Prior to occupancy, permittees shall verify through visual observation that the BMPs are operational.	It will be impossible to ascertain the operation of BMPs prior to occupancy unless it rains between construction and occupancy	Revise to verification that BMPs are built according to approved plans prior to occupancy.	Permit language has been revised.
97	Irvine	XII.H	Change of ownership and recordation	The City already has a non-recorded mechanism that tracks the transfer of long-term maintenance and operation responsibilities from a developer to an appropriate operator upon completion of development. The recordation requirement should be left to the discretion of the permittees.	Delete reference of recording any documents and explicitly allow other methods of tracking ownership and responsibility.	Permit language has been revised.
98	ConTech	Section XII	5% Effective Impervious Area (EIA)	Reliance on a 5% EIA standard is inappropriate.	Support the approach outlined in the January 2009 ¹ white paper.	Permit language has been revised based on the water

¹ January 2009 white paper=

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				The water quality benefits of applying a 5% EIA standard on a site-by-site basis are unknown.	Use delta volume (post minus pre-development) from the water quality design storm event.	quality design storm event.
99	ConTech	Section XII	Treatment and Low Impact Development (LID) BMPs.	Treatment and LID BMPs inspection and maintenance requirements are not well defined.	All water quality and/or water quantity control BMPs should have maintenance and inspection requirements.	Permit language has been revised.
100	ConTech	Section XII	Post-construction	There is no standard for selection of post-construction BMPs	Provide standards for selection of post-construction BMPs.	There are a number of handbooks (e.g., CASQA ² BMP handbooks) available for this purpose.
101	ConTech	General	Potential pollutants of concern	Match potential pollutants with control BMPs.	The permit should require that pollutants be controlled by matching with appropriate BMPs.	There are a number of handbooks (e.g., CASQA ³ BMP handbooks) available for this purpose.
102	NRDC/OCC ⁴	Section XII	Need for LID metrics	To ensure compliance with the Clean Water Act, quantifiable measures must be included.	Support the use of an EIA limitation in the permit; a 3% EIA limitation is recommended.	Comment noted. The 5% EIA metric in the permit has been replaced with a volume capture metric.
103	NRDC/OCCCI CWQ	Section XII	EIA definition	Change the EIA definition to include full onsite retention of a design storm event. EIA is not clearly defined.	The design storm should not be the delta volume from a 2-year storm event; it should be the full volume. Include a design storm volume.	The draft permit has been amended to incorporate appropriate design storm criteria.
104	NRDC/OCC	Section XII	EIA definition	The term "percolate" is not defined.	Revise the permit such that BMPs are required to have the capacity to "infiltrate, harvest for reuse, or evapotranspire".	Permit language has been changed.
105	NRDC/OCC	Section XII	Waiver Provisions	Existing waiver provisions are very broad. The permit's waiver provisions should include a floor for all projects to meet.	The permit should include a provision to implement all feasible LID BMPs and must include a provision for offsite mitigation of storm water not retained onsite. The permit should define technical infeasibility. Rewrite the waiver	Permit language has been revised to provide clarification.

² CASQA=California Stormwater Quality Association

³ CASQA=California Stormwater Quality Association

⁴ OCC=Orange County Coastkeeper

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					provisions to include establishment of an "urban runoff fund". Include time limitations for the expenditure of funds.	
106	NRDC/OCC	Section XII	Waiver provisions	The permit must impose limits on water quality credit system to ensure equivalent benefits within the watershed.	Having a cap of something like 50% or less of the volumetric requirement should be considered.	Waiver provisions have been revised.
107	NRDC/OCC	Section XII	Prioritize LID BMPs	A hierarchy of BMPs should be included.	Include a preferred approach of BMPs.	Permit language has been revised.
108	NRDC/OCC	Section XII	Treatment Control BMPs	LID should not be a substitute for treatment control BMPs.	Any project exercising this option should be required to provide 1:1.5 mitigation offsite.	Permit language has been revised to provide clarification.
109	NRDC/OCC	Section XII	Hydrologic conditions of concern	No waiver should be provided for discharges to engineered hardened conveyance channels.	Do not allow this waiver provision.	The waiver provision has been revised.
110	NRDC/OCC	Section XII	Priority projects	Support the inclusion of projects with a threshold of 5,000 sq ft impervious area.	Add clarifying language to Section XII.B.2.(a)	Permit language has been revised.
111	NRDC/OCC	Section XII	Groundwater Protection	The 10' separation requirement may be overly restrictive.	A 5' separation requirement may be appropriate.	The 10' separation is a conservative approach; there is an option for a case-by-case consideration of other options.
112	NRDC/OCC	Section XII	LID Metrics	A critique ⁵ of the January 2009 white paper (see footnote 1).	The critique provides some arguments in support of a 3-5% EIA metric and provides an analysis of some of the other findings of the January 2009 white paper (see footnote 1).	The January 2009 white paper and its critique have been considered in the revision of some of the LID provisions in the permit.
113	CICWQ ⁶	Section XII	LID/Regional BMPs LID BMPs should be preferred	Support LID; regional BMPs and off-site solutions should be considered.	Both provisions are in the current draft.	Comments noted.
114	CICWQ	Section XII	LID design storm	A 2-year, 24-hour design storm is not appropriate.	Consider a design storm as specified in the DAMP.	Permit language has been revised.
115	CICWQ	Section	LID	LID BMPs should be the	LID BMPs should be required of all	Permit language revised.

⁵ Critique of Certain Elements of "Low Impact Development Metrics in Stormwater Permitting" by Dr. Richard Horner.

⁶ CICWQ=Construction Industry Coalition on Water Quality

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		XII		preferred approach.	projects.	
116	CICWQ	Section XII	HCOC	HCOC should be considered on a watershed specific basis.	A technically sound hydromodification plan should be permitted.	Permit language has been revised.
117	CICWQ	Section XII	Watershed Master Plan	Support such a plan.	Include a provision in the permit to require development of a watershed master plan or plans.	Permit language has been revised and a new section has been added.
118	NAIOP	Section XII	Watershed Master Plan	The entire issue surrounding hydromodification, infiltration and addressing water quality is very complex. The draft permit seems to want to approach it with a focus on a project by project basis.	Watershed Master Plans can be developed such that water resource goals can be integrated to address water quality, hydromodification, water supply and habitat issues.	Comment noted. Some changes have been made to the new/re-development section of the permit.
119	CICWQ	Section XII	Capture volume	Permit should not require make up of capture volume off site or require a fee.	Delete all requirements for off site mitigation.	The preferred option is 100% LID implementation on site. Off site mitigation is one option where full on site implementation of LID BMPS are not feasible.
120	CICWQ	Section XII	LID feasibility	Permittee should decide whether LID is feasible.	Permittees should have the option to require conventional or LID BMPs on a site-specific basis.	LID BMPs are cost effective and provides water quality and quantity benefits. As such, LID should be the preferred option. Permit does provide other options.
121	CICWQ	Section XII	LID guidance	Additional time is needed to develop LID guidance	Provide 12 months to develop LID guidance and revise WQMP.	Much of the required information is already in the WQMP and six months should be enough to consolidate readily available information.
122	CICWQ	Section XII	WQMP Contents	Revise the requirements specified in the draft permit for revising the WQMP.	Delete Section XII.B.3(a) of the permit.	While some revisions to the permit have been incorporated, Section XII.b.3(a) is still applicable.
123	CICWQ	Section XII	Design volume	Capture volume should be SUSMP volume.	Delete references to 5% EIA and include a capture volume design based on the SUSMP design	The design volume has been changed to SUSMP criteria.

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					criteria.	
124	CICWQ	Section XII	HCOC	Hydromodification control strategies should be those recommended in the GeoSyntec white papers ⁷ .	Use control strategies as defined in Attachment 4 (see footnote 7).	Some changes have been made to the permit based on this white paper and other discussions at the stakeholder meetings.
125	CICWQ, NAIPO	Section XII	Areas of agreement	1) EIA or other metrics may be used for LID. 2) Capture volume design may be based on WQMP criteria. 3) LID BMPs should be prioritized. 4) Offsite mitigation needed if on site treatment is not provided		Comments noted and agreed upon items are reflected in the revised draft.
126	County of Orange	Section XII.G	Field verification of BMPs	The requirement to inspect treatment control BMPs is burdensome.	Allow self certification and/or third party verification.	An option is added for self-certification and/or third party verification.
127	County of Orange	Section XII	LID/HCOC	The Model Water Quality Management Plan addresses LID and HCOC; additional mandates and metrics need careful consideration.	Areas of agreement: A performance standard other than the 5% EIA. Water quality design volume at 85 th percentile. Prioritize LID BMPs.	LID and HCOC sections have been amended to reflect areas of agreement and to provide clarity.
128	County of Orange- Attachment A	Section XII	Land use authority/LID	The permit intrudes upon local land use authority.	Requirements, such as the 5% EIA requirement, are in contravention to the separation of powers.	The 5% EIA requirement was one of the options provided as a quantifiable measure for determining compliance with the LID/HCOC provisions of the permit. Other options were also provided in the permit. Providing several tools for compliance determination does not

⁷ Orange County MS4 Permit Stakeholder Sub-Group Examining LID BMP and Hydromodification Control Sizing Alternatives, prepared by Geosyntec for the January 27, 2009 Sub-Group meeting.

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						intrude into local land use authority. (The 5% EIA requirement has been amended.)
129	County of Orange-Attachment A	Section XII	Land use authority/LID	Prescribing a method of compliance is a violation of Section 13360 of the Water Code,	Do not specify a method of compliance.	As indicated above, the 5% EIA was one of the tools for compliance determination. At the same time, Water Code section 13377 provides that, notwithstanding section 13360, the Regional Board shall issue waste discharge requirements "which apply and ensure compliance with all applicable provisions of the [Clean Water Act]."
130	Orange County-Attachment B	Section XII	New Development/re-development	Revisions to proposed land development provisions are needed.	Revise "grandfathering" provision.	Permit language has been revised.
131	Orange County-Attachment B	Section XII.A.2	WQMP guidance	Revisions should be in the LIP.	Modify permit language.	Permit language has been revised.
132	Orange County Attachment B	Section XIIA.6	CEQA review	Annual review of CEQA process is unnecessary.	Modify permit language.	Permit language has been revised.
133	Orange County Attachment B	Section XII.B.2	Commercial/industrial development	The threshold has been changed w/o technical justification.	Provide justification for changing it from 100,000 to 10,000 square feet.	Fact Sheet has been revised.
134	Orange County Attachment B	Section XII.B.2.(c)	Streets, roads and highways	The LID provision is difficult to implement.	Make it consistent with the U.S. EPA requirements.	Permit language has been revised.
135	Orange County Attachment B	Section XII.B.2.(j)	Retail gasoline outlets	The DAMP includes BMPs for these types of facilities.	Avoid duplicative efforts.	The BMPs in the DAMP, along with LID and other requirements, should be considered for these types of facilities.
136	Orange County	Section XII.B.3.	WQMP goals	Goals are written as specific requirements.	Revise permit language.	Permit language has been revised.

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	Attachment B					
137	Orange County Attachment B	Section XII.B.5	Structural infiltration BMPs	No technical basis for the 10 feet separation for infiltration systems, light industrial category and for high vehicular traffic.	Consider the proposed regulations developed by State Board for onsite wastewater treatment systems.	Permit language provides for other options on a case-by-case basis.
138	Orange County Attachment B	Section XII.B.7	WQMP for non-priority projects	Certain non-priority projects may not require a WQMP.	A WQMP should not be required of all projects.	The permit language provides other options.
139	Orange County Attachment B	Section XII.C.1	LID design principals	The design BMPs is a confusing mix of goals, tasks and work products.	Revise the list.	Permit language has been revised.
140	Orange County Attachment B	Section XII.C.2	LID site design	Source control BMPs should not a part of this discussion.	Should delete this section.	Permit language has been revised.
141	Orange County Attachment B	Section XII.C.3	LID/EIA	5% EIA is not appropriate.	Use other LID metric.	Permit language has been revised.
142	Orange County Attachment B	Section XII.C.4	Substitution of LID/treatment controls	This provision, as written, does not appear to be correct.	Provide clarification.	Permit language has been revised.
143	Orange County Attachment B	Section XII. D.1	HCOC	An assessment of a project's impact on the hydrologic regime should not be required for all projects.	For some projects, there may not be a hydrologic condition of concern.	Permit language has been revised.
144	Orange County Attachment B	Section XII.D.2	HCOC	5% EIA should not be the metric for hydrologic conditions of concern.	Express the metric in terms of runoff volume.	The metric for hydrologic condition of concern has been changed.
145	Orange County Attachment B	Section XII.D	HCOC	An additional provision should be added to this section to include HCOC mapping as an option.	Add an interim provision till development of an appropriate LID metric.	Permit language has been revised.
146	Irvine	XIII.J.1	The LID and hydrologic conditions of concern provisions are not applicable to projects that have an approved WQMP as of the date of adoption of	Under the DAMP and LIPs, project WQMPs are prepared at a conceptual level to be used as planning documents and at a project level, to implement the concept project WQMP planning document. It is unclear whether	Revise to specify land use approvals that will determine development projects that are grandfathered and those that are not.	Permit language has been revised to further identify the level of approval/stage of planning where the requirements of this permit do not apply.

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			this order.	the conceptual level WQMPs will be grandfathered in as were the land use approvals in the 2002 permit.		
147	Irvine	XIII.3	Public education requirements include making 10 million impressions per year.	There must be a clear definition for an impression. Currently an impression can consist of anything from driving past a pollution prevention banner to and extended face-to-face interaction with a member of the public.	Consider a more effective way of evaluating the effectiveness of a public education program rather than relying on impressions. If impressions must be used, develop a standardized method of determining what qualifies as an impression.	While it is agreed that a more precise method of measuring the impacts of each and every public education interaction would be advantageous, trying to evaluate the effectiveness of City bus placards (depends on the route of the bus), City bill mailing inserts (determining percentage of inserts dumped without seeing, glanced at or actually read), etc., may be more tedious.
148	County of Orange-Attachment B	Section XIII.4	Public Education and Outreach	Requirements for annual business-related workshops may not be very useful.	Suggest modifying the language to include chamber of commerce or other outreach efforts.	Permit language has been revised.
149	County of Orange-Attachment B	Section XIV	Municipal facilities	Annual inspection requirement should be only for open channel systems.	Change annual inspection requirements to open channels only.	Permit language has been revised.
150	Irvine	XIV.7	Report on the effectiveness of debris boom	Do debris booms violate the restriction on treatment BMPs being employed in waters of the U.S.?	Clarify the Regional Board's position.	No violation exists (see Comment 9).
151	Irvine	XIV.10	Permittees shall examine opportunities to retrofit existing storm water conveyance systems and parks with water quality protection measures and report within 12 months of permit adoption	A 2005 retrofit study performed by RBF Consultants has not been adopted or approved by the principal permittee, is still in draft form and co-permittees have not had the opportunity to review the draft.	The 2005 RBF Retrofit Study should not be mandated as the basis for co-permittee retrofit programs until the co-permittees have had an opportunity to review, comment, and approve the final draft, as required in the current MS4 permit for any program developed by the principal permittee.	The permit requires that a retrofit study be performed and a report on the study be submitted within a year of permit adoption. If the 2005 study is still current/valid, that study could be submitted after review, and if not then a new study would have to be initiated.
152	County of	Section	Training program	Revise annual training	Change training frequency	Permit language has been

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	Orange-Attachment B	XVI		requirement to be consistent with the County program (2 year frequency).Permittees should be given an option to have their own training programs.	requirements.	revised.
153	Irvine	XVI.2	Water quality training program curriculum	Permittees should be able to tailor their training programs. Non-management staff should not be responsible for knowing the whole storm water program, just their discrete tasks.	Revise order to allow greater flexibility in tailoring course curriculum to be appropriate to an employee's area of responsibility.	Permit language has been revised.
154	Irvine	XVI.3	Training modules should include an outline of the curriculum, a training procedure at the end and Certificate of Completion.	Mandatory training and practical application workshops should provide an alternative to a Certificate of Completion, which raises employment and labor issues.	Delete reference to testing requirements, certifications and Certificates of Completion.	Permit language has been revised.
155	Irvine	XVI.4, XVI.5 and XVI.6	At least on an annual basis, the principal permittee shall provide training to staff on Fixed Facility Model Maintenance procedures, Field Program Model Training, etc.	While this section explicitly states that the principal permittee shall provide training, where city management is competent in the storm water program, they should be allowed to provide that training in-house. Cities with a demonstrated or perceived deficiency may benefit from training provided by the principal permittee.	Revise the tentative order to allow individual cities to provide in-house training rather than participate in training administered by the principal permittee or by their consultants.	Permit language has been revised with the understanding that deficiencies in a permittee's program that are the result of either management or staff's lack of understanding about the program could result in enforcement actions.
156	Irvine	XVI.7	The principal permittee shall notify Regional Board staff at least 30 days prior to conducting training sessions.	This notification requirement should not be applied to the initial training given to new employees, but only to the annual training given to all appropriate staff. Further, providing a summary training in the annual report be used in lieu of contacting Regional Board staff.	Revise the tentative order to allow documentation of training summary information in the annual report rather than notifying Regional Board staff of it's occurrence, but at minimum clarify that new employee training sessions do not require Regional Board notification.	By notifying Regional Board staff, by email, prior to conducting training, it gives Regional Board staff the opportunity to sit in on the training to ensure that the quality of the training meets the requirements of the permit. The Regional Board is also interested in the initial

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						training for new storm water program employees
157	Irvine	XVI.8	Permittee shall adequately train staff within 60 days of being assigned duties related to the storm water permit.	It would be impractical for the principal permittee or their consultant to provide training within 60 days of every new co-permittee hire. If co-permittees are responsible for this training then it makes sense for co-permittees to be responsible for training existing staff.	Add an option to enable individual co-permittees to provide in-house training for new hires using curriculum developed by the principal permittee in collaboration with the co-permittees.	Permit language has been revised.
158	Irvine	XIV	None	Sections are misnumbered	No recommendation submitted.	Section numbers corrected.
159	U.S. EPA	XVIII.B.2	TMDL applicability	Although 2007 TMDL listed in this section have been adopted by the Regional Board, they have not been submitted to the State Board for approval. Until the State Board, OAL and the EPA have approved these TMDLs, they are not applicable.	Continue to implement the currently approved 2002 TMDLs until the 2007 TMDLs have been approved by the State Board, OAL and EPA	Permit language has been revised to include both 2002 and 2007 TMDLs.
160	U.S. EPA	XVIII Tables 1A/B		These tables do not accurately reflect the WLA's for urban runoff in EPA's 2002 TMDLs. Additionally, the table should clarify that the WLAs are intended to be enforceable effluent limits.	Compliance with WLAs could be required in accordance with the time frame envisioned by the Board's implementation plan, since this would be consistent with the intent of the EPA TMDLs.	Tables have been revised
161	County of Orange- Attachment A	Sections III.3.i and XVIII.B.3	Selenium in rising groundwater	The source of selenium in the rising groundwater should be considered as a non-point source and should not be subject to the NPDES permit.	Since selenium is from a non-point source, it should not be regulated under the NPDES permit.	Permit language has been revised to describe the co-operative process that is being used to address the selenium and nutrient impacted groundwater in the San Diego Creek Watershed.
162	County of Orange- Attachment B, U.S. EPA	Section XVIII.B.3	Selenium and nutrient TMDL	Make the collaborative language more explicit.	Use suggested changes.	Permit language has been revised.

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163	County of Orange-Attachment B, U.S. EPA	Section XVIII.E	Numeric effluent limits	The reference to numeric effluent limit is not accurate.	Recognize these as wasteload/load allocations.	Permit language has been revised.
164	County of Orange-Attachment A	Section XVIII.B.4	San Gabriel River metals TMDL	The permit inappropriately implements TMDLs developed by the U.S.EPA.	The requirements in the permit are for Coyote Creek; the upper reach of Coyote Creek is not listed as an impaired waterbody and therefore this requirement is inappropriate.	While the San Gabriel River metals TMDL lists the portion of Coyote Creek that lies within the Los Angeles Region, the upstream portion of Coyote Creek that lies within Orange County is one of the sources of pollutants responsible for the exceedances in the lower Coyote Creek, San Gabriel River and San Gabriel Estuary. Further, the San Gabriel River metals TMDL contains a specific Waste Load Allocation of the MS4 discharge to the upper Coyote Creek.
165	County of Orange-Attachment A	Section XVIII.B.4	San Gabriel River metals TMDL	Since the Santa Ana Regional Board's Basin Plan does not include an implementation plan for Coyote Creek TMDL, this requirement is not consistent with the Clean Water Act and the TMDL requirements. For San Gabriel River.	This TMDL's requirements are outside the scope of authority given to the Regional Board by the Clean Water Act's NPDES program.	These TMDLs were promulgated by US EPA and notification and the opportunity to comment was given to the entities that discharge to these impacted waters.
166	U.S. EPA	XVIII.C Tables 5a & 5b	Tables illustrating future Fecal Coliform TMDL's	These tables contain errors in that the first two rows of each table both include "TMDL for Fecal Coliform". It appears that one of these rows should present the WLA for urban runoff.	Make necessary changes in tables as deemed appropriate. Additionally, clarification language should be added to reflect that urban runoff WLA's are intended to be permit effluent limits	Tables corrected and clarification added.
167	U.S. EPA	XVIII.D.1	Diazinon and	The permit does not explicitly	Add language in this section that	Permit language has been

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			chlorpyrifos TMDLs for San Diego Creek and Newport Bay	state that diazinon and chlorpyrifos WLAs are intended to be permit effluent limits and that the permittees shall comply with the wasteload allocations in tables 6a and 6b.	states "The permittees shall comply with the following wasteload allocations in tables 6a and 6b." Additionally, the Fact Sheet should discuss the current compliance status of the permittees with the WLAs; given the phase-out of these pesticides within urban areas.	revised.
168	U.S. EPA	XVIII.D.4	Sediment load allocations for Newport Bay and San Diego Creek	The permit should include firm dates for the submittal of monitoring data presenting the 10-year running averages.	The permit should include firm dates for the submittal of monitoring data presenting the 10-year running averages.	Permit language has been changed.
169	U.S. EPA	XVIII.E.2	Compliance with TMDLs	Language should be clarified for consistency with the rest of section XVIII.	Recommend revising language to read: "Based on the TMDLs, numeric effluent limits have been specified to ensure consistency with the wasteload allocations."	Permit language has been revised.
170	Irvine	XIX.B.4	"The Management Committee shall meet at least six times a year to discuss issues related to permit..."	Has the Permittee Committee's name been changed to the Management Committee?	Please clarify.	Permit language has been revised.
171	County of Orange-Attachment C	Monitoring and Reporting	Bioassessment	Integrate this requirement with the regional bioassessment programs.	Integrate monitoring programs.	Permit language has been revised.
172	County of Orange	Monitoring and Reporting	Land use correlation	This information has already been collected.	Eliminate the land use correlation element.	Permit language has been revised.
173	County of Orange	Monitoring and Reporting	Bacteriological monitoring	Intense bacteriological monitoring has been conducted for the last four years.	Reduce bacteriological monitoring requirements.	Permit language has been revised.
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174	NRDC	ROWD MRP IV.2.b	Permit renewal application	The permit renewal application is incomplete as it did not include an assessment of controls.	ROWD should have included an assessment of control measures and their effectiveness in removing pollutants.	The ROWD was posted for public comments. No comments were received and we accepted it as complete

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						after providing 30 days of public notice and review period. We believe that the requirement in the Monitoring and Reporting Section of the draft order for program effectiveness analysis is an appropriate requirement to address this issue.
175	Orange	Fact Sheet	Section IX	Fact sheet still refers to 5% EIA	Delete this reference.	Fact sheet language has been amended.
176	BIA	General	Maximum extent practicable (MEP)	Some stakeholders misrepresent the meaning of MEP.	MEP is "hortatory" (i.e., merely encouraging or exhorting) and permit requirements should be based on the real meaning of MEP.	Comment noted.
177	Cypress			Please give further consideration to previously submitted recommendations.		Comment noted.
178	Contech Stormwater Solutions	Finding 66 and 67	Requires proper design of BMPs	Vortex systems, filters, and catch basin inlets have no connection to groundwater and cannot therefore cause groundwater pollution.	Remove these BMPs from this finding.	The finding also references these BMPs becoming a nuisance and/or cause surface water pollution. Improper maintenance of the aforementioned BMPs can result in these problems.
179	County of Orange	Various	Reporting requirements	The County believes that the refining of existing reporting mechanisms is the most effective approach to increasing transparency and accountability	Revise reporting requirements.	The permit has been revised giving the permittees the opportunity to propose alternative reporting methodologies contingent on the approval of the Executive Officer.
180	County of Orange, Irvine, Lake Forest	Various	Deliverables and submittal dates	Compliance submittals within 6 months or with the first annual report may not provide enough time to budget and complete work.	With the exception of the hydrologic conditions of concern mapping, revise compliance dates to at least one year after permit approval.	For the majority of these deadlines, the compliance dates have been revised.
181	NRDC	III	Non-storm water discharges	Prohibit non-storm water discharges.	Include a prohibition on non-storm water discharges.	The permit provisions are consistent with the Clean Water Act and the federal

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						regulations (40 CFR 122.26(d)(2)(iv)(B). The federal regulations state that certain types of de minimus discharges need not be prohibited from the MS4s unless they are identified by the permittees as a significant source of pollutants.. Section III.1 of the draft order prohibits all other types of non-storm water discharges.
182	Golden State Water Company	III.3	De minimus discharge requirements	Does section III.3.ii refers to discharges from all entities or just municipal permittees?	Clarify requirement.	Permit language has been amended to clarify that this section only applies to discharges from municipal permittee owned/operated facilities and activities.
183	Laguna Hills	VI.6	Construction and industrial inspections	The new requirement that cities notify the Regional Board regarding violations at sites that are State General Permittees is unwarranted	Remove this requirement.	This requirement was in previous permit (Order R8-2002-0010 – Section VI.5). Further, coordinated enforcement actions will enhance water quality and meets the MEP threshold for this MS4 permit.
184	County of Orange	IX.10 and X.11	Coordination of inspections with Regional Board staff	The current limited resources available to both the Regional Board and permittees to conduct inspections makes coordination of these activities a priority. It is recommended that a formal framework for inspection responsibilities be established.	Revise permit accordingly.	Permit language has been added identifying this goal.
185	Laguna Hills	X.1	Quarterly update of commercial facility inventory	The City already updates it's commercial inventory on a continuous basis.	Allow permittees to constantly track facilities.	The permit has been revised to give the permittees an opportunity to devise an alternate updating methodology that's approved by the Executive Officer.

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186	Huntington Beach	X.2	Prioritizing commercial sites.	Requirement will increase number of inspections 10-fold.	Allow self-inspections of commercial sites 4 of 5 years and have cities inspect once per permit term.	While analysis of the permittee's commercial site database revealed numerous commercial businesses not listed in X.1.a-s, which could probably be dropped from their inspection database without threat to water quality, the permit has been revised to lower the Medium priority percentage to 20%. In the April 10, 2009 draft, Section XII.2 provides an option for the permittees to develop a scheme for prioritization and inspection of commercial sites.
187	Laguna Hills	X.2	Prioritizing commercial sites	The assignment of arbitrary percentages for high, medium and low priority sites means if a City has already assigned 100% commercial sites a High priority, it will have to downgrade at least 40% to meet the requirement.	Permittees should be given the flexibility as to designating its facilities without being restricted by the Regional Board.	During the 3 rd term permit, MS4 Audits conducted by Regional Board staff indicated the need for more regimented oversight regarding commercial inventory management and inspections within this section. If the example cited by the commenter arises, certainly, having 100% High priority ranked sites would be going beyond the minimum standards set by the permit and would not be viewed as a violation. Section XII.2 provides an option to develop a scheme for prioritization and inspection of commercial sites.
188	Irvine	X.2 and 3	Inspections of commercial sites	The new 10/40/50 High/Medium/Low commercial breakdown will	Make use of the 10% High priority, but only require inspections of High	While communication with the permittee has revealed some

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				require that the City perform an additional 985 inspections per year resulting in an additional annual cost of \$279,700.	priority sites.	problems with their estimates, revisions to the permit have lowered the Medium priority percentage to 20%. In addition, Section XII.2 provides an option to develop a scheme for prioritization and inspection of commercial sites.
189	County of Orange	X.2 and 3	Commercial facility inspections	The permit should provide an opportunity to develop a risk-based scheme as an alternative to current permit language.	Revise permit accordingly.	Section X.2 now provides the permittees an opportunity to develop a prioritization scheme for inspections. The commercial inspection program was introduced in the 2002 permit cycle. The permit requirements prescribed a minimum of the program's structure. As a result of permittee's implementation of the program, further prescription of a minimum program was warranted. Through implementation of the program proposed in the current draft permit, a more efficient program should evolve for the next permit cycle.
190	Huntington Beach, Irvine	X.3 and X.5	Photographic documentation of commercial sites	Permit requires photos of waste & material handling BMPs which is beyond the requirement for industrial sites.	Require photos only to document violations.	Photographic documentation of waste and material handling practices will ensure that sufficiently substandard storage is appropriately documented as a violation by the permittees and will allow Regional Board staff to more accurately evaluate permittee

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						inspection/enforcement activities during audits.
191	Orange	X.3	Commercial inspections	The proposed 10/40/50 (high/medium/low) priority breakdown will require an additional 900 inspections per permit cycle for the City.	Either maintain current flexibility or introduce the 10% mandatory 'High' priority and inspect remaining 90% as needed.	While the 900 additional inspections/permit cycle works out to 4 additional inspections a week, the priority breakdown has been adjusted to a minimum 10/20/70.
192	BIA	Section XII	CEQA	Integrate MS4 permit requirements into the CEQA documents.	Use CEQA to integrate LID principles into the project at an early stage.	We agree; there are a number of requirements in the draft permit requiring such integration (e.g., see Section XII.A.4 and 6)
193	NRDC	XII	New Development	This section should be revised to require meeting MEP standard.	Include clarifications to ensure that Permittees meet MEP standard.	Clarifications added.
194	NRDC	XII	Documents submitted for review and approval	The public should have an opportunity to review and comment on the documents submitted for approval.	Revise permit language.	Permit language revised (See Footnote 55).
195	Irvine	XII.A.7	Project approval process requirement	None	Clarify that the update of the project approval process is the same as for the DAMP finalization.	Permit language has been revised.
196	Lake Forest	XII.B and C	Implementation of LID	Implementation of LID and hydromodification requirements will not always be feasible, in particular there is concern about implementing the USEPA's 'Green Streets' guidance document.	None	The permit addresses situations where requirements may not be feasible and provides suitable alternatives in these situations (See Section XII.E).
197	NRDC	XII.B.2	List of priority projects	Revise the list to make it clear.	Revise the list to make it clear.	List revised.
198	Orange	XII.B.2.b	New Development	By revising permit language to include subdivisions with less than 10 units, if there's a combined 10,000 sq. ft. of imperviousness, the permit may now require single family homes to be priority development projects.	Retain the language exempting subdivisions of less than 10 units.	If the threshold of 10,000 sq. ft. of impervious surface is exceeded there is the potential for a similar level of pollutant load and alteration of the hydrologic regime, whether that area is divided between 10 residential units or less than 10.

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199	Orange	XII.B.2.c and j	Priority Development Project classification	It is unclear whether the 10,000 square feet refers to land area or building area.	Clarify	Permit language has been amended to indicate that 10,000 sq. ft. refers to impervious area.
200	Orange County Business Council	XII.B.2.h	WQMPs for streets	The requirement for adherence to US EPA's 'Green Infrastructure' for public streets will increase costs and may not be possible.	Remove this requirement.	The incorporation of the US EPA guidance document was at the suggestion of some of the stakeholders. Further, XII.B.2.h only requires the incorporation of the US EPA guidance document to the Maximum Extent Practicable.
201	NRDC	XII.B.5	Infiltration systems	The specified separation needed for infiltration systems to groundwater of 10' should be revised.	Make the separation 5'.	Permit language revised.
202	Irvine	XII.B.5(a)	Structural infiltration BMPs	Structural infiltration BMPs should meet minimum requirements that they not increase seepage or exfiltration of contaminated groundwater	Clarify language.	Permit language states that infiltration systems shall not cause or contribute to groundwater water quality exceedances (Section XII.B.5.a).
203	Orange County Water District	XII.b.5.f	LID – Infiltration requirements	Footnote 50 restricts infiltration in sites known to have soil 'and' groundwater contamination. The word 'and' should be replaced with the word 'or.'	Revise permit language.	The footnote (54 in 3 rd draft) has been revised.
204	Orange County Water District	XII.B.5.f	LID – Infiltration requirements	There are some land uses that should be restricted from infiltration whether or not there is current contamination (e.g., gas stations).	Include restrictions on infiltration for sites that have a high threat to water quality	The tentative order includes restrictions on infiltration systems in high vehicular traffic areas. We believe that this restriction along with the underground storage tank regulations should provide the needed groundwater protection from infiltration systems.
205	Contech Stormwater	XII.B.5.f	Structural infiltration BMPs	In high traffic areas, infiltration BMPs should have a minimum	Add requirement.	Rather than risking groundwater contamination by

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	Solutions			75 gallon spill retention capability for diesel/hydraulic fluid spills.		spills greater than the design volume of a proposed BMP, it is more prudent to prohibit infiltration BMPs in the situations presented in XII.B.5.f.
206	Orange County Water District	XII.C	LID – Infiltration requirements	OCWD would encourage the creation of a comprehensive map of Orange County identifying areas suitable for infiltration.	Require data to be collected and a map to be prepared.	The permittees are encouraged to prepare a Watershed Master Plan (see Section XII.D.5) to address LID infiltration and hydrologic conditions of concern in a comprehensive manner. Also Section XII.E.1 of the order requires the permittees to develop feasibility criteria for implementing LID BMPs.
207	Orange County Water District	XII.C	LID – Infiltration requirements	From a management and monitoring standpoint, grouping or clustering infiltration systems on a regional basis would make sense.	Consider the grouping of infiltration systems.	Sections XII.D.5 and XII.E of the order provides an opportunity for the permittees to develop LID infiltration systems on a regional or sub-regional basis.
208	Orange County Water District	XII.C	LID – Infiltration requirements	Data needs to be collected in Orange County to assess the potential impacts to groundwater quality due to dry wells, infiltration galleries and poorly maintained infiltrations systems.	Revise permit language.	A requirement for developing a monitoring program for the infiltration systems has been added to the tentative order (see Section XII.B.5.g).
209	Orange County Water District	XII.C	LID – Infiltration requirements	An anti-degradation analysis in terms of groundwater quality should be provided in the Order.	Revise permit language.	We do not believe that any further anti-degradation analysis is needed as the infiltration systems are required to be designed to mimic pre-development hydrologic conditions with proper controls for pollutant sources.
210	Orange	XII.C	LID requirements	Redevelopment and in-fill	Exempt redevelopment and in-fill	While permit language in the

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				projects may not be able to meet the LID requirements.	projects from LID requirements where sites drain to hardened or engineered channels.	3 rd draft, acknowledges that sites for which all receiving waters are hardened do not need to meet hydrology modification requirements, LID implementation also addresses pollutant transport by reducing the runoff responsible for the transport. So were possible, LID BMPs should be implemented.
211	Irvine	XII.C	LID requirements	It should be made clear that "LID requirements do not apply to development of conceptual or project WQMPs approved prior to 12 months after permit adoption..."	Clarify language.	XII.J clearly states that the only fully grandfathered projects are those that already have an approved WQMP. For all projects for which conceptual or project WQMPs are approved after the adoption of the permit and prior 90 days after approval of the revised model WQMP must implement the provisions in Section XII of the permit to the maximum extent practicable.
212	Irvine	XII.C	Hydrologic conditions of concern requirements	It should be made clear that "hydromodification control requirements do not apply to development of conceptual or project WQMPs approved prior to 12 months after permit adoption..."	Clarify language.	XII.J clearly states that the only fully grandfathered projects are those that already have an approved WQMP. For all projects for which conceptual or project WQMPs are approved after the adoption of the permit and prior 90 days after approval of the revised model WQMP must implement the provisions in Section XII of the permit to the maximum extent practicable.
213	Orange County Business	XII.C	LID requirements	The permit should make clear that capture and infiltration is not	Clarify permit.	The permit already makes this clear. See Section XII.E.1.

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	Council			required where infeasible or impractical.		
214	CICWQ	Section XII.C.	Conventional treatment control BMPs	Conventional treatment control BMPs should be considered only as a last resort.	Require structural treatment controls only if LID BMPs are infeasible.	We agree.
215	CICWQ	Section XII.C	LID BMPs	NGOs references to more restrictive volume controls for MS4 permits are not relevant.	Most references are from guidance documents and are not included in the adopted MS4 permits.	We agree that most references are not from adopted MS4 permits. Nevertheless, some of these are useful guidance documents for implementing LID.
216	BIA	Section XII.C	LID BMPs	The Board should include filtration as an acceptable LID BMP.	Include "filtration" as an LID BMP.	We have no objection to considering filtration as a second-tier LID BMP. This should be done on a case-by-case basis.
217	BIA	Section XII.C	LID BMPs	100% on-site retention should not be mandated. Reject any "universal retention doctrine".	Allow for "natural flow doctrine".	The draft permit does not require 100% on-site retention.
218	NRDC	XII.C	LID	LID provisions should be clearly articulated with performance standards.	Revise draft permit language.	Permit language has been revised.
219	NRDC	XII.C	LID	LID BMPs must meet the MEP standard.	Provide clarification.	Permit language revised.
220	County of Orange	XII.C.1 and 2	LID requirements	Clarifying text change recommendations were provided for these sections.	Revise permit accordingly.	Permit language has been revised to include some of the recommended changes.
221	Contech Stormwater Solutions	XII.C.2.b	LID BMPs	Permit should not limit permeable paving alternatives.	Allow alternatives to permeable concrete or porous asphalt.	Permit language has been amended.
222	Contech Stormwater Solutions	XII.C.2.b	LID BMPs	The phrase "minimize pipes, culverts and engineered systems..." should be replaced.	Replace statement with a more general "minimize changes to the time of concentration on site."	Recommended language has been incorporated into the permit.
223	Orange	XII.C.3	Infiltration BMPs	Dry wells are listed as an allowable BMP, but may result in groundwater contamination	Require consultation with local water district prior to approval of dry wells.	Permit language has been revised.
224	Contech	XII.C.4	LID BMP design	While the goal of LID BMPs	Delete this section.	The permit already provides

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	Stormwater Solutions		requirements	might be capturing the 85 th percentile event, it shouldn't be a design requirement		options for sites where conditions rule out treating the 85 th percentile event through LID BMPs.
225	Contech Stormwater Solutions	XII.C.5	Treatment BMP requirements	This section does not specify any level of treatment that is required by BMPs.	Specify the treatment control BMPs must be designed to have medium or high effectiveness based on full-scale, in-field testing.	The current Model WQMP has a similar requirement and it will be carried over in the Model WQMP approved for this permit.
226	CICWQ	Section XII.C. 5 & 7	LID BMPs	The current language in provisions 5 and 7 restricts the application of all available LID BMPs. These provisions include a universal mandate to infiltrate.	Include a second tier option for biofiltration, bioretention, filter strips, etc.	We believe that the most effective LID BMPs are those that infiltrate or harvest and re-use storm water onsite. The bio-treatment types of BMPs should be considered on a case-by-case basis.
227	Contech Stormwater Solutions	XII.C.7.a-b	LID BMPs	It is overly prescriptive to dictate where BMPs should be implemented.	Delete these sections.	The intent of this permit language is to encourage mimicking natural conditions where localized detention areas address the majority of storm events.
228	Orange County Business Council	XII.D	Hydrologic modifications	The permit should recognize that most, if not all, in-fill projects are incapable of mimicking the pre-development hydrologic regime.	Clarify permit	The permit already acknowledges that not all sites will be able to meet this requirement on-site and provides suitable alternative compliance mechanisms.
229	Orange, County of Orange	XII.D.2.b	Hydrologic Conditions of Concern (HCOC)	Second draft of the permit has added that HCOC may exist for downstream hardened channels if those channels are Waters of the U.S. In the City's experience, all conveyance channels have been considered Waters of the U.S. by the Army Corps of Engineers.	Delete the added statement.	Permit language has been revised.
230	Irvine	XII.D.2(b)	Hydrologic conditions of concern exemptions	The permit language that currently exempts hardened channels from requiring	Clarify language.	If channels are engineered and regularly maintained to ensure design flow capacity,

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				hydrologic controls should be expanded to include stabilized channels		they do not have a hydrologic condition of concern per the third draft permit language.
231	CICWQ	Section XII.D.2.(b)	HCOC	The addition of the last sentence eliminates any waivers for HCOC.	Delete the last sentence.	The last sentence has been deleted.
232	NRDC	XII.E	Alternatives and in-lieu programs	The alternatives should be better integrated.	Revise permit language.	We did not see the need for any additional changes.
233	County of Orange	XII.E.1	Alternative and In-lieu programs	Clarifying text change recommendations were provided for this section.	Revise permit accordingly.	It's the judgment of Regional Board staff that the language currently in the draft permit more accurately portrays staff's intent.
234	Irvine	XII.H	Structural treatment BMP tracking	This section requires permittees to establish a mechanism to track structural BMPs and ensure that proper easements are recorded and conveyed to new owners.	There are already procedures in place at the County Recorder's office and through permittee's WQMP approval processes that address these requirements.	If the permittees can ensure that the requirements set forth in XII.H are being addressed then XII.H is satisfied.
235	Laguna Hills	XII.H.1	Ensure that structural treatment control information is tracked with ownership change.	Recorded information is already transferred to new owner and City should not be held responsible for keeping track of this.	Delete requirement.	If the permittees can ensure that the requirements set forth in XII.H are being addressed then XII.H is satisfied.
236	Lake Forest	XII.I.3	Structural treatment BMP database	It appears that the requirement is that all BMPs installed to date would have to be included.	Limit database to only newly constructed BMPs.	Permit language has been revised.
237	Irvine	XII.I.5	Structural treatment BMP inspections	Current permit language limits inspection of these BMPs to the dry season. Further, because the number of these BMPs will increase every year we request that the number inspected be dropped from 50% to 25%.	Revise permit	The need to ensure that the BMPs are functional during the wet season requires inspection prior to the wet season. However, the inspection quantities have been reduced to 25% per year with 100% coverage during every 4 year cycle.
238	Lake Forest	XII.I.5	Structural treatment BMP inspections	The number of these BMPs will be increasing every year, becoming burdensome.	The permit should allow self inspections or use a representative sampling	Permit language has been revised.

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239	Laguna Hills	XIII.4	Commercial business training	Business owners will not attend training during the work day.	Rely on education during site visits.	Because site visits for some facilities may not occur until the end of the permit cycle, site visit education can only be one part of an overall business education system.
240	Orange	XVI.3 and 4	Permittee employee training	The requirement for testing and Certificates of Completion infringes on the City's right to set employee class specifications.	Allow attendance sheets or other proof that training has been completed in place of Certificates of Completion and allow other procedures to substitute for testing to verify an employee's understanding of the curriculum.	Section XVI.3 has been amended to include other methods of course completion.
241	NRDC	XVIII	TMDL	Specify that the wasteload allocations (WLA) are enforceable permit limits.	Make WLAs enforceable permit limits.	Permit language revised.
242	NRDC	XVIII	TMDL	Prohibit new sources and new dischargers from discharging into 303(d) listed waters.	Include a prohibition on new sources and new dischargers into impaired waters.	First, while new development or redevelopment in an urban area may change the characteristics of the discharge entering the MS4 and hence the receiving water, each new development or redeveloped area does not constitute a new source or discharge. Further, the intent of the current MS4 permit is to address pollutant loads through an iterative BMP process. Finally, the cited case appears to be not quite relevant to municipal storm water permitting. As such no permit revision is proposed.
243	County of Orange, Lake Forest	XVIII.B.10	Coyote Creek TMDL	TMDLs adopted by another Regional Board should not be applied outside their jurisdiction. Regulated entities should have the opportunity to participate and dispute the adoption of a TMDL.	The Coyote Creek TMDLs should not be included in this permit.	While the San Gabriel River metals TMDL lists the portion of Coyote Creek that lies within the Los Angeles Region, the upstream portion of Coyote Creek that lies

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						within Orange County is one of the sources of pollutants responsible for the exceedances in the lower Coyote Creek, San Gabriel River and San Gabriel Estuary. Further, the San Gabriel River metals TMDL contains a specific Waste Load Allocation of the MS4 discharge to the upper Coyote Creek. We also note that the permittees that discharge to the listed waters were notified during the TMDL stakeholder process and commented on the TMDL at that time.
244	Lake Forest	Distribution list	None	Saddleback Valley School District was not included.	Include the school district.	The school district has been added to the list of other entities with the potential to discharge pollutants to the Orange County storm water system.